REMARKS/ARGUMENTS

Claims 1-11, 14, 17-21, 26-28, and 33-35 are pending.

Claims 12-13, 15-16, 22-25, and 29-32 have been cancelled.

In the Office Action dated August 31, 2010, claims 1-11, 14-22, 26-28, and 33-35 were rejected under 35 U.S.C. § 101; and claims 1-11, 14, 17-22, 26-28 and 33-35 were rejected under 35 U.S.C. § 103(a) as unpatentable over Papalia (U.S. Patent No. 7,430,459) in view of Jones (U.S. Patent Publication No. 2002/0198929).

REJECTION UNDER 35 U.S.C. § 101

The claims were rejected as failing to recite statutory subject matter, based on the allegation that the claims do not recite steps that are tied to a particular machine or apparatus, and that the steps do not transform a particular article to a different state or thing.

Applicant respectfully disagrees with the allegation. For example, the "using" clause of claim 1 specifically recites using a network of the plurality of computers, which clearly indicates that at least the "using" clause of claim 1 is tied to particular machines, namely, the plurality of computers. Moreover, the "using" clause of claim 1 further recites performing the service with the retained portions of the processing resources of the computers, which further ties the "using" clause of claim 1 to particular machines or apparatus.

Therefore, claim 1 is directed to statutory subject matter. Independent claims 14 and 21 are similarly directed to statutory subject matter.

Like claim 1, independent claim 6 recites using a network of the plurality of computers to provide a service, which clearly ties the "using" clause of claim 6 to particular machines, namely, the plurality of computers. Moreover, claim 6 further recites additional tasks performed by a vendor computer node. Therefore, it is clear that claim 6 is also tied to particular machines or apparatus.

In view of the foregoing, withdrawal of the § 101 rejection is respectfully requested.

REJECTION UNDER 35 U.S.C.§103

Independent claim 1 has been amended to recite that for each of the computers, the vendor retains the right to use a portion of the processing resource of a corresponding computer while a remaining portion of the processing resource of the corresponding computer is for control by the respective purchaser of the corresponding computer. Support for this amendment can be found at least in the following passages of the present application: ¶[0014], [0017]-[0018].

It is respectfully submitted that claim 1 is non-obvious over Papalia and Jones.

To make a determination under 35 U.S.C. § 103, several basic factual inquiries must be performed, including determining the scope and content of the prior art, and ascertaining the differences between the prior art and the claims at issue. *Graham v. John Deere Co.,* 383 U.S. 1, 17, 148 U.S.P.Q. 459 (1965). Moreover, as held by the U.S. Supreme Court, it is important to identify a reason that would have prompted a person of ordinary skill in the art to combine reference teachings in the manner that the claimed invention does. *KSR International Co. v. Teleflex, Inc.,* 127 S. Ct. 1727, 1741, 82 U.S.P.Q.2d 1385 (2007).

As conceded by the Office Action, Papalia does not disclose "computers." 08/31/2010 Office Action at 4. Instead, the Office Action cited Jones as disclosing "computers." *Id.* at 4-5.

It is noted that Papalia actually discloses the provision of power machines (such as fuel cells), free of charge, to customers, for provision at the homes of the customers. Papalia, 2:55-59. Importantly, note that the power machines are at all times under the control of the "aggregator," which is the entity that provides decision data regarding the economic costs involved in receiving power from the power grid and in generating power from the local power machines. *Id.*, 4:30-33. The aggregator can actuate the local power machines in the homes of customers for one of several economic reasons, such as when the power grid goes down, and based on comparisons of price of electricity and natural gas. *Id.*, 5:32-60. In all instances, it is clear that the aggregator maintains central control of the local power machines at the homes of customers. There clearly is no hint given in Papalia of entering into agreements that specify that the vendor retains a right to use processing resources of the corresponding computers after the sale of the computers,

where for each of the computers, the vendor retains the right to use a **portion** of the processing resource of the corresponding computer while a remaining **portion** of the processing resource of the corresponding computer is for **control by the respective purchaser of the corresponding computer**.

It is clear that Papalia contemplates total central control of the power machines by the aggregator, with no control of the power machines given to the customers. Given the scheme of Papalia, it would make absolutely no sense to give control of the local power machines to individual customers, as doing so would defeat the intended purpose of Papalia, which is to allow for the aggregator to monitor economic conditions for determining whether or not local power machines should be turned on. Allowing customers to control the local power machines would strip control from the aggregator, and would make it difficult if not impossible for the aggregator to perform the control of actuation of the local power machines to achieve desired goals of the aggregator.

Although the secondary reference, Jones, discloses the ability of clients to contribute resources for peer-to-peer sharing, such that a master can determine the priorities of requests of the respective clients, there is no hint given in Jones regarding entering into agreements between the vendor and respective purchasers, where the vendor retains the right to use portions of the corresponding computers (while remaining portions remain under the control of the purchasers), where the purchasers were sold the computers by the vendor, and where the plurality of computers are conveyed, subject to the agreements, to the purchasers.

In view of the foregoing, it is respectfully submitted that even if Papalia and Jones could be hypothetically combined, the hypothetical combination of the references would not have led to the subject matter of claim 1. Moreover, in view of the significant differences between the claimed subject matter and the teachings of Papalia and Jones, no reason existed that would have prompted a person of ordinary skill in the art to combine the teachings of Papalia and Jones to achieve the subject matter of claim 1.

Claim 1 is therefore non-obvious over Papalia and Jones.

Independent claims 14 and 21 are allowable for similar reasons as claim 1.

The obviousness rejection of independent claim 6 over Papalia and Jones is also erroneous. First, the Office Action erred in arguing that Papalia discloses entering into

the plurality of agreements to retain a right to use **storage areas** in the respective computers. As purportedly disclosing this feature, the Office Action cited column 5, lines 20-45, of Papalia. 08/31/2010 Office Action at 8. This cited passage refers to the aggregator offering power machines to the customers free of charge, and the aggregator controlling actuation of the power machines under various economic conditions. There is absolutely no hint regarding entering into agreements to retain a right to use **storage areas** in the respective computers.

The Office Action conceded that Papalia fails to disclose the following elements of claim 6:

> the vendor computer node maintaining a list of all of the computers connected thereto, along with respective IP addresses for the corresponding computers, and information identifying files stored in the respective retained storage areas of the corresponding computers; and
>
> in response to a query for a requested file, the vendor computer node accessing the list to identify one or more of the computers storing the requested file to enable retrieval of the requested file in response to the query.

Id. at 8-9. Instead, the Office Action cited Jones, and specifically,¶[0006] and [0017] of Jones, as purportedly disclosing the claimed subject matter conceded to be missing from Papalia.

Paragraph [0006] of Jones refers to using peer-to-peer technology to offload demands from master servers to nearby clients that are downloading the same content for their own use. As explained in¶[0006] of Jones, the master server divides a large file into small pieces that are downloaded to first client machines that request a file. These client machines will then function as peer-to-peer servers. Subsequent requests from new client machines are then redirected by the master server to the client machines which already have the required file pieces. Paragraph [0017] of Jones describes a network data processing system with a network that represents a collection of networks and gateways. However, there is no teaching in the foregoing passages of Jones regarding the vendor computer node that maintains a list of all the computers connected thereto, along with respective IP addresses for the corresponding computers, along with information identifying files stored in the respective retained storage areas of the corresponding computers. Moreover, there is no hint in the cited passages regarding the vendor

computer node, in response to a query for a requested file, accessing the list of all computers to identify one or more computers storing the requested file to enable retrieval of the requested file in response to the query.

In addition, there is no hint in the teachings of Jones regarding entering into agreements to retain a right to use storage areas in respective computers, as claimed.

In view of the foregoing, it is clear that even if Papalia and Jones could be hypothetically combined, the hypothetical combination of the references would not have led to the subject matter of claim 6. Moreover, in view of the significant differences between the claimed subject matter and the teachings of Papalia and Jones, no reason existed that would have prompted a person of ordinary skill in the art to combine the teachings of Papalia and Jones to achieve the subject matter of claim 6.

Claim 6 is therefore non-obvious over Papalia and Jones.

Dependent claims are allowable for at least the same reasons as corresponding independent claims.

Allowance of all claims is respectfully requested.

The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10018453-1).

Respectfully submitted,

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